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MEMORANDUM ENDORSED

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April 20, 2023

VIA ECF

Hon. Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 6B
New York, New York 10007

Re: *Montoya v. Havana Central NY 2, LLC, and Jeremy Merrin*
Civil Action No.: 23-cv-00111

Dear Judge Gorenstein:

We represent Defendants Havana Central NY 2, LLC, (“Havana Central”) and Jeremy Merrin (collectively, “Defendants”) in the above-referenced matter. We write to respectfully request an adjournment *sine die* of the initial case management conference scheduled for April 27, 2023, at 11:00 a.m. and all discovery in this matter. Plaintiff does not consent to this request.

On April 10, 2023, Defendants filed their Motion to Dismiss Plaintiff’s Amended Complaint. In their motion, Defendants requested dismissal of Plaintiff’s causes of action because his claims arising under the Fair Labor Standards Act (“FLSA”) are time barred and he has failed to state cognizable claims of unpaid overtime wage under the FLSA and New York Labor Law.

Defendants’ motion is currently pending before the Court. Specifically, Judge Jennifer L. Rochon has set a motion schedule requiring Plaintiff to file his opposition papers, if any, by April 24, 2023, and for Defendants to file their reply papers by May 1, 2023.

Given that Plaintiff’s Amended Complaint may be dismissed in its entirety if Defendants’ motion is granted, an adjournment of the initial case management conference and all discovery would help conserve judicial resources. Such an adjournment would also benefit both parties as they can avoid the potentially unnecessary expense of discovery. This is particularly important

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for Defendant Havana Central, which is a small business still recovering from the economic hardships of the COVID-19 pandemic.

Accordingly, Defendants respectfully request that Your Honor adjourns *sine die* the initial case management conference and all discovery. Thank you for Your Honor's time and consideration in this matter.

Respectfully submitted,


/s/ Glenn S. Grindlinger

Glenn S. Grindlinger

cc: All counsel of record (via ECF)

The application to adjourn the conference is denied. As for a stay, this letter does not provide grounds for such a stay and in any event does not comply with paragraph 2.A of the Court's Individual Practices inasmuch as it purports to be an application rather than a request for permission to file an anticipated motion. That being said, in addition to discussing the proposed scheduling order at the April 27 conference, the Court will be prepared to discuss the issue of how any formal motion for a stay should be presented if defendants wish to pursue that option.

So Ordered.



GABRIEL W. GORENSTEIN
United States Magistrate Judge
April 21, 2023